

Lease Report

June 17, 2003

**Report to the Executive Appropriations Committee
Of the Utah State Legislature**

**Prepared by
The Office of the Legislative Fiscal Analyst**

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Introduction

In compiling data for an annual report to the Legislature as part of the budget process, the Analyst found that there may be some confusion regarding leasing policy, approval and reporting. Given the amount of information available regarding this issue may have been too complex to handle in the tight time frame of the Legislative session, the Analyst agreed to present a more detailed report as part of the interim process. This report includes information on lease types, approval requirements, funding sources and appropriate use.

Lease Authority

Three entities have leasing authority in Utah: DFCM, the Courts and the Utah System of Higher Education. DFCM bears the responsibility for coordinating and reporting lease activity:

63A-5-303. Lease reporting and coordination.

(1) The director (of DFCM) shall:

(a) prepare a standard form upon which agencies and other state institutions and entities can report their current and proposed lease activity, including any lease renewals; and

(b) develop procedures and mechanisms within the division to:

(i) obtain and share information about each agency's real property needs; and

(ii) provide oversight and review of lessors and lessees during the term of each lease.

(2) Each agency, the Judicial Council, and the Board of Regents for each institution of higher education shall report all current and proposed lease activity on the standard form prepared by the division to:

(a) the State Building Board; and

(b) the Office of Legislative Fiscal Analyst.

Each year DFCM presents a lease report as part of the Five Year Book. The Legislature provides a flexible system of reporting that allows agencies to manage their programs with leases when appropriate by simply reporting their intention rather than gaining formal approval for each lease. Current statute requires DFCM or Judicial Council oversight for high cost leases, defined as a lease that:

(a) has an initial term including any agency optional term of ten years or more; or

(b) will require lease payments of more than \$1,000,000 over the term of the lease including any agency optional term. (*UCA 63A-5-301*)

This provision is not applicable to the Utah System of Higher Education which has the ability to establish its own policies:

63A-5-305 Leasing by higher education institutions.

(1) The Board of Regents shall establish written policies and procedures governing leasing by higher education institutions.

(2) Each higher education institution shall comply with the procedures and requirements of the Board of Regents' policies before signing or renewing any lease.

*USHE Leasing
Policy*

In meeting their statutory goal, the Regents commit to:

Review and approve institutional requests for plans to lease capital facilities space with state-appropriated funds for programs of instruction, research, or service when contracts for leasing such facilities: (1) exceed \$50,000 per year; (2) commit the institution to space rentals for a 5-year duration or beyond; or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space. An annual report of all space leased by the institutions, including space leased for off-campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarding to the State Building Board for possible inclusion its comprehensive 5-year building plan. (*Regent Policy 4.5.7. - Leased Space*)

*Leasing Provides
Flexibility*

Leasing offers the state a substantial value when used appropriately. Lease space can offer low cost and flexibility while tying the cost of facilities directly to agency budgets.

Overall, Utah state agencies leases more than six million square feet. However, one-third of that amount is at the State Fair Park and significant amounts are tied up in land leases and federal grants. By removing UDOT, the State Fair and the National Guard, the state's average cost per square foot totals \$8.55.

The tables below present data on leases held by the courts, state agencies and the USHE.

**Leasing Oversight
could be
strengthened**

Agencies report proposed lease addition to the Legislature through the Building Board's Five-Year Book. This allows budget committees to plan for operating expenses and comment on appropriate use of funds. When agencies enter into leases without prior reporting they may adversely impact the Legislature's role to establish budget priorities. The Analyst recommends that the Legislature adopt as policy a prohibition on funding of any lease that is made without prior legislative modification.

Table 1: Executive / Judicial Leases

Utah Lease Space By Agency (Does not include USHE)			
<i>Agency</i>	<i>Square Feet</i>	<i>Annual Rent</i>	<i>\$/ Sq. Ft.</i>
DABC	56,382	\$593,548	\$10.53
Atty. General	19,616	272,801	\$13.91
Agriculture	1,335	3,528	\$2.64
CCJJ	4,093	28,651	\$7.00
Commerce	137	2,083	\$15.21
Corrections	116,048	464,044	\$4.00
Courts	269,297	2,653,520	\$9.85
DAS	244,016	534,303	\$2.19
DCED	42,534	624,912	\$14.69
DEQ	23,050	108,075	\$4.69
DHS	470,426	5,947,061	\$12.64
DNR	120,653	298,726	\$2.48
DWS	282,643	3,281,216	\$11.61
State Fair	2,534,768	10	\$0.00
Financial Inst.	8,735	107,671	\$12.33
Governor	648	26,392	\$40.73
Health	40,467	562,085	\$13.89
Insurance	4,419	88,986	\$20.14
JCC	739	9,977	\$13.50
Navajo	1,224	17,699	\$14.46
National Guard	1,231,016	54,555	\$0.04
Public Ed	92,791	974,763	\$10.50
Public Safety	283,034	964,109	\$3.41
State Treasurer	7,576	108,716	\$14.35
SITLA	23,200	401,907	\$17.32
Tax Commission	40,406	328,406	\$8.13
UDOT	310,557	124,199	\$0.40
Grand Total	6,229,810	\$18,581,941	\$2.98
<i>Total w/o Fair/Guard/UDOT:</i>			
	2,153,469	\$18,403,177	\$8.55

The state leases many different types of property, the bulk of which is land. Office space accounts for nearly 1.3 million square feet of total space.

The aggregate reporting shown here does not account for lease type (i.e., triple net) nor does it differentiate between funding sources. Information on individual leases and funding sources is available from the agency and DFCM.

Table 2: Executive / Judicial Lease Types

Utah Leases By Type (Does not include USHE)			
<i>Lease Type</i>	<i>Square Feet</i>	<i>Annual Rent</i>	<i>\$/Sq. Foot</i>
Air Monitoring Station	2,080	\$7,500	\$3.61
Classrooms	686	3,000	\$4.37
Court/Office	190,924	1,786,345	\$9.36
Free Office	13,299	0	\$0.00
Ground Lease	4,306,790	51,514	\$0.01
Hangar	1,175	3,078	\$2.62
Hangar/Office	94,535	35,246	\$0.37
Human Resource	34,677	255,531	\$7.37
Library	6,390	5,319	\$0.83
Office	984,443	14,350,812	\$14.58
Office/Other	79,770	649,712	\$8.14
Office/Sublease	21,132	238,476	\$11.29
Parking	155,050	151,142	\$0.97
Stock Pile Yard	105,450	75	\$0.00
Storage	38,371	94,683	\$2.47
Storage/Other	81,584	354,830	\$4.35
Store	50,382	591,458	\$11.74
Trailer Space	8,400	2,020	\$0.24
Transmit Sta.	54,672	1,200	\$0.02
Grand Total	6,229,810	\$18,581,941	\$2.98

The Utah System of Higher Education leases an additional 1.5 million square feet. The table below shows changes from 2001 to 2002. A significant portion of space leased by the University of Utah is part of research park.

Table 3: USHE Leases

	USHE Lease Report					
	<i>2001 Leases</i>	<i>2001 Sq. Ft</i>	<i>2001 Rent</i>	<i>2002 Leases</i>	<i>2002 Sq. Ft</i>	<i>2002 Rent</i>
University of Utah	81	779,763	\$9,332,712	85	838,282	\$10,305,216
Utah State University	14	107,409	853,634	15	99,133	744,556
Weber State University	7	51,974	120,790	8	54,442	134,894
Southern Utah University	18	40,546	273,913	22	42,506	290,024
Snow College	0	0	0	0	0	0
Dixie State College of Utah	1	5,840	125	1	5,840	125
College of Eastern Utah	3	26,725	60,116	4	32,325	60,126
Utah Valley State College	17	182,868	718,826	17	200,097	736,994
Salt Lake Community College	9	67,879	604,138	9	107,283	649,623
Utah College of Applied Technology		n/a	n/a	10	184,241	941,805
<i>Mountainland ATC</i>				3	97,924	239,901
<i>Salt Lake/Tooele ATC</i>				3	29,076	418,720
<i>Southeast ATC</i>				2	47,241	223,484
<i>Uintah Basin ATC</i>				1		24,000
<i>Davis ATC</i>				1	10,000	35,700
USHE TOTAL	150	1,263,004	\$11,964,254	171	1,564,149	\$13,863,363
<i>Total Leases Added:</i>				29	309,175	\$1,925,123
<i>Total Leases Ended:</i>				8	(37,600)	(\$373,760)
<i>Total Leases Changed:</i>				80	26,570	\$346,876
<i>Total Increase:</i>				21	301,145	\$1,899,109

UCAT Leases to be reported as part of USHE

The Utah College of Applied Technology (UCAT) began reporting its leases along with the USHE this year. Currently there are still some reporting errors that prevent the two reports from tying together on totals. The Analyst is working with the USHE to ensure better reporting in the future.

Table 4: UCAT Lease

	UCAT Leasing			
	<i>FY 2003</i>	<i>FY 2003</i>	<i>FY 2004</i>	<i>FY 2004</i>
	<i>Square Feet</i>	<i>Total Rent</i>	<i>Square Feet</i>	<i>Rent</i>
Bridgerland	-	-	-	-
Central	-	-	-	-
Dixie	-	-	-	-
Mountainland	97,924	\$239,901	97,924	\$239,901
Ogden-Weber	-	-	-	-
Salt Lake - Tooele	32,157	298,500	60,757	406,499
Southeast	2,241	23,484	3,200	33,600
Southwest	45,000	130,000	45,000	130,000
Uintah Basin	-	24,000	0	24,000
Davis	10,000	35,700	10,000	35,700
UCAT Total	187,322	\$751,585	216,881	\$869,700

SL/T UCAT entered into leases during the 2002 interim that led to a budget request in excess of \$510,000. The bulk of the request (\$298,000) was to pay for space previously donated to SL/T UCAT by a private entity. Another was for space in Tooele and does not appear on the official report, nor was it included subsequently in preparation for this report until specifically requested.

Lease Revenue Bonds

In recent years some Legislators have expressed concern that agencies may be taking on leases for the purpose of getting a revenue stream that can be used to purchase a facility in future years. Over the past five years the Legislature authorized more than \$210 million in revenue bonds for various projects, but only two (the UDC Office Building and the USHE/UHEAA Office Building) have been funded from leases. Combined they represent approximately \$17 million in outstanding debt.

Table 5: Percent Lease - Revenue Bonds

	<i>Higher Ed</i>	<i>State Government</i>	<i>Note</i>
FY 2000	\$4,000,000	\$9,028,000	UDC Office Complex
FY 2001	\$8,000,000		USHE/UHEAA Offices
FY 2002	\$128,500,000	\$22,735,800	UU Cancer Hosp., Soldier Hollow Golf
FY 2003	\$21,500,000	\$1,836,000	\$19m From USU Research Fees
FY 2004	\$1,500,000	\$15,341,000	W. Jordan Courts \$14m
Total	\$163,500,000	\$48,940,800	

Revenue bonds come from a variety of sources. The Department of Alcoholic Beverage Control funds debt service from liquor profits. Higher Education uses grant money and student fees to fund some of its projects. The Judicial Branch will apply court fees from the Matheson Complex to debt service payments for the newly approved courthouse in West Jordan.

If interest rates continue to remain low other agencies may look to lease-revenue bonds to replace current high cost leases. As reported during the 2003 General Session¹ leasing is the most costly option for acquiring space that is needed for long term purposes. In cases where the state has a long term need the Legislature should carefully scrutinize options to convert leased space to owned space. At the same time, Appropriation Subcommittees should closely monitor agency expansion through leases to ensure that proposed leases are for temporary purposes rather than to be used as a means to leverage state funds in the future.

Recommendations

Leasing can provide the state a means to serve citizens in a cost effective and flexible manner. Furthermore, leases tie directly to agency budgets under the supervision of legislative appropriation committees.

The Analyst is concerned that there exists a loophole in the leasing statute that allows agencies to commit to leases in the interim even though they lack funding for the new space. **The Analyst recommends that the legislature adopt as budget policy a prohibition on providing new funding for any lease that is signed during the interim without prior approval.**

¹ Office of the Legislative Fiscal Analyst (January, 2003). FY 2003 Budget Recommendations: Debt Service. Salt Lake City, UT: Office of the Legislative Fiscal Analyst.